APPENDIX "A"

Statutes Involved

The Illinois Use Tax Act, Ill. Rev. Stat., (1963) Ch. 120, § 439.1 et seq., as it relates to the instant case provides in pertinent part as follows:

439.2 Definitions.] § 2. "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" shall not mean the interim use of tangible personal property by a retailer before he sells such tangible personal property and shall not mean the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in Interstate Commerce to destinations outside the State of Illinois. . . .

"Retailer" means and includes every person engaged in the business of selling tangible personal property for use, and not for resale in any form. . . .

"Retailer maintaining a place of business in this State", or any like term, shall mean and include any retailer:

1. Having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or

any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State, or

2. Engaging in soliciting orders within this State from users by means of catalogues or other advertising, whether such orders are received or accepted within or without this State.

439.3 Tangible personal property purchased at retail—Use tax—Rate—Collection and remittance—Exemptions.]

The tax hereby imposed shall be collected from the purchaser by a retailer maintaining a place of business in this State or a retailer authorized by the Department pursuant to Section 6 hereof, and remitted to the Department, pursuant to the provisions of Section 9 hereof.

439.8—Tax collected as debt owed to state—Exception.]

§ 8. The tax herein required to be collected by any retailer pursuant to this Act, and any such tax collected by any retailer shall constitute a debt owed by the retailer to this State, except when such retailer is relieved of the duty of remitting such tax to the Department by virtue of his being required to pay the tax imposed by the Retailers' Occupation Tax Act[1] upon his gross receipts from the same transaction.

439.12a. Appointment of secretary of state for service of process—Force and effect of service.] § 12a. Any non-resident of this State who accepts the privilege extended by the laws of this State to non-residents of acting as a retailer maintaining a place of business in this State within the meaning of Section 2 of this Act.[1] and any resident of this State who incurs tax liability under this Act as a seller and who subsequently removes from this State or conceals his wheretbouts, and any person (residents or non-resident) who incurs tax liability under this Act as a user in this State and who removes from this State or conceals his whereabouts, shall be deemed thereby to appoint the Secretary of State of Illinois his agent for the service of process or notice in any judicial or administrative proceeding under this Act. Such process or notice shall be served by the Department on the Secretary of State by leaving, at the office of the Secretary of State at least 15 days before the return day of such process or notice, a true and certified copy thereof. and by sending to the taxpayer by registered or certified mail, postage prepaid, a like and true certified copy, with an endorsement thereon of the service upon said Secretary of State, addressed to such taxpayer at his last known address.

Service of process or notice in the manner provided for in this Section, under the circumstances specified in this Section, shall be of the same force and validity as if served upon the taxpayer personally within this State. Proof of such service upon the taxpayer in this State

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1. Section 440 et seq. of this chapter.

1. Section 439.2 of this chapter.

through the Secretary of State as his agent and by mailing to the last known address of the taxpayer may be made in such judicial or administrative proceeding by the affidavit of the Director of Revenue, or by his duly authorized representative who made such service, with a copy of the process or notice that was so served attached to such affidavit. Added by act approved July 25, 1961. L.1961, p. 1945.

The Illinois Sales Tax or Retailers' Occupation Tax Act, Ill. Rev. Stat., (1963) ch. 120, § 440 et seq., as it relates to the instant case provides in pertinent part as follows:

451. Rules and regulations—Notices—Hearings—Review of administrative decisions—Appeals.] § 12. The Department is authorized to make, promulgate and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this Act as may be deemed expedient.

Whenever notice is required by this Act, such notice may be given by United States registered or certified mail, addressed to the person conserned at his last known address, and proof of such mailing shall be sufficient for the purposes of this Act. Notice of any hearing provided for by this Act shall be so given not less than 7 days prior to the day fixed for the hearing.

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The provisions of the "Administrative Review Act," approved May 8, 1945, as amended, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder. The term "administrative decision" is defined as in Section 1 of said "Administrative Revew Act".

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